

BEFORE THE HEARING PANEL OF THE  
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION  
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE,  
HON. RALPH E. ERIKSSON,  
CASE NO. 07-64

SC CASE NO. 07-1648

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**MOTION IN LIMINE TO PRECLUDE THE USE  
OF STATEMENTS MADE BY ANYONE BEFORE THE  
INVESTIGATIVE PANEL DUE TO THE CONFIDENTIAL NATURE  
OF THE PROCEEDINGS**

**RALPH E. ERIKSSON**, County Court Judge, by and through his undersigned counsel, files this *in limine* motion to preclude the Judicial Qualifications Commission from making any evidentiary use of any and all statements made to the Investigative Panel on June 28, 2007 and February 28, 2008, during the Hearing Panel proceeding now scheduled for December 8, 2008. As grounds, Judge Eriksson alleges:

1. On June 28, 2007, Judge Eriksson appeared before the Investigative Panel of the JQC for a hearing conducted pursuant to Rule 6(b) of the Florida Judicial Qualifications Commission Rules. At that time, he answered questions and made statements in response to panel members' questions that primarily addressed the subject of his judicial acts as he had been apprised by the Notice of Investigation and his invitation to appear before the Panel.

2. Subsequently, on February 28, 2008, Judge Eriksson appeared before the Investigative Panel for a second 6(b) hearing. On this occasion, he gave a sworn statement in response to panel members' questions that primarily addressed the subject of his judicial conduct toward *pro se* injunctive litigants on October 30, 2007.

3. Following the holding of the afore-mentioned 6(b) hearings, the Investigative Panel has filed an Amended Notice of Formal Charges alleging Judge Eriksson violated the Code of Judicial Conduct by his actions of increasing bond conditions in State v. Bob Lee Walton and State v. Daniel Bradshaw; and by the manner in which he conducted the injunctive hearings of October 30, 2007.

4. That by virtue of the explicit provisions of Article V, s. 12(a)(4) and Rule 23(a), FJQCR, "all proceedings" held before the JQC Investigative Panel are confidential and of a non-public nature. The confidential nature of "all proceedings by or before the commission" [until such time as formal charges are brought by the Investigative Panel] would necessarily encompass what goes on at a 6(b) hearing since the very purpose of the 6(b) hearing is to further the Investigative Panel's ability to determine if there is any accusation to initiate formal charges of judicial misconduct or disability. See, Rule 6(b), FJQCR.

5. In sharp contrast, proceedings before the JQC Hearing Panel, following the filing of formal charges with the Clerk of the Florida Supreme Court, are non-confidential and are matters of public record.

6. As it relates specifically to the Investigative Panel phase, and pursuant to Article V, s. 12(a)(4) and FJQCR Rule 23, it is only the alleged content of the formal charge brought by the Investigative Panel that becomes a matter of public record, along with *further proceedings that occur before the Hearing Panel*. Consequently, all the proceedings and matters occurring before the Investigative Panel (which lead up to the filing of a formal charge), are confidential—and remain so even after a formal charge is filed by the Investigative Panel.

7. Due to the confidential nature of the 6(b) hearings, the statements given therein by Judge Eriksson retain their confidential status and cannot be used by either him or the JQC for evidentiary purposes before the Hearing Panel. The law couches these statements as confidential, not the parties or the panel, as they were set by the Supreme Court and not the JQC.

8. This motion is filed in good faith

WHEREFORE, Judge Ralph E. Eriksson, requests the entry of an Order which precludes any party from seeking to make evidentiary use of

any and all statements made before the Investigative

Panel due to the confidential nature of such matters and proceedings.

### **MEMORANDUM OF LAW**

The confidentiality argument framed in this *in limine* motion is based on the plain language of Article V, s. 12(a)(4) of the Florida Constitution and of FJQCR Rule 23(a). For its part, Article V, s. 12(a)(4) reads as follows:

(4).....Until formal charges against a justice or judge are filed by the investigative panel with the clerk of the supreme court of Florida all proceedings by or before the commission shall be confidential; provided, however, upon a finding of probable cause and the filing by the investigative panel with said clerk of such formal charges against a justice or judge such charges and all further proceedings before the commission shall be public.

Similarly, Rule 23(a) provides:

(a) Until formal charges against a judge are filed by the Investigative Panel of the Commission with the Clerk of the Supreme Court, all proceedings by or Before the Commission shall be confidential. Upon a finding of probable cause and the filing...of such formal charges against a judge, such charges and all further proceedings before the Hearing Panel shall be public.

Based on the foregoing constitutional and rule authorities, this *in limine* motion should be granted in order to enforce the requirement that all matters before the JQC Investigative Panel are confidential and are to remain

confidential.

Respectfully submitted this \_\_\_\_ day of December, 2008.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been delivered by  
Federal Express delivery this \_\_\_\_ day of December, 2008, to:

Judge Thomas B. Freeman  
Chairman, Hearing Panel,  
Florida Judicial Qualifications Commission  
Criminal Justice Center  
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